IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 246 OF 1995

The Commissioner of Income Tax, Bombay .. Applicant
V/s.
M/s. Elys Chemical Laboratories
P. Ltd., Bombay - 18. .. Respondent

Mr. R.V. Desai with Ms. S.V. Bharucha and Mr. R. Ashokan for the Applicant
None present for the Respondent

CORAM : S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.
DATED : 22.02.2005

P.C.:-

1. Heard the learned counsel for the Applicant. The question referred to reads as under:-

> "1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that in computing the disallowance of remuneration and perquisite paid to the employee director, the provisions of section 40(c) and not those of section 40A(5) of the I.T. Act are applicable?"

2. In view of the decision in **C.I.T. v. Hico Products Pvt. Ltd. 2001 ITR 567 (Bom.)**, the reference is answered in the affirmative i.e. in favour of the assessee and against the Revenue.

(S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)